

REMARKS

In the Office Action dated April 27, 2005, claims 6-10 and 21-22 are pending and under examination. The Examiner has objected to the priority claim of the present application. The Examiner has also rejected claims 6-10 and 21-22 under 35 U.S.C. §112, first paragraph for allegedly containing subject matter not described in the specification as originally filed. Further, the Examiner has rejected claims 6-10 and 21-22 under 35 U.S.C. §102(b) as allegedly anticipated by AN: Q92843 (GenBank), and by AN: P70345 (GenBank), respectively. Moreover, the Examiner has rejected claims 6-10 and 21-22 under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent 6,812,339.

This Response addresses each of the Examiner's objections and rejections. Applicants therefore respectfully submit that the present application is in condition for allowance. Favorable consideration of all pending claims is therefore respectfully requested.

In the Action, the Examiner alleges that the Amendment filed on May 6, 2004, which modified the amino acid sequences of SEQ ID NO: 7 and SEQ ID NO: 9, is not supported by the specification or the priority documents, U.S. Serial No. 09/155,327 (the parent application) and Australian Provisional Application PN8965 (filed on March 27, 1996). In particular, the Examiner alleges that Applicants did not identify where the support for the intended corrections of SEQ ID NO: 7 and SEQ ID NO: 9 is found in the specification. In addition, the Examiner observes that according to the specification, SEQ ID NOS: 7 and 9 are encoded by SEQ ID NOS: 6 and 8, respectively. The Examiner indicates that the current sequences of SEQ ID NOS: 7 and 9 are inconsistent with the amino acid sequences that would be encoded by SEQ ID NOS: 6 and 8, respectively. The Examiner concludes that with respect to SEQ ID NO: 7 and SEQ ID NO: 9, Applicants are not entitled to the benefit of an earlier filing date under 35 U.S.C. §119 and §120,

and are only entitled to May 6, 2004, the date on which the current versions of SEQ ID NO: 7 and 9 were filed. For the same reason, the Examiner has rejected claims 6-10 and 21-22 under 35 U.S.C. §112, first paragraph for allegedly containing subject matter (SEQ ID NOS: 7 and 9) not described in the specification as filed.

In response, Applicants respectfully submit that the current versions of SEQ ID NO: 7 and SEQ ID NO: 9 were presented to the Examiner in the Preliminary Amendment dated August 9, 2001. In that Preliminary Amendment, Applicants provided a substitute Sequence Listing and explained that Applicants corrected certain clerical errors in SEQ ID NOS: 6, 7, 8 and 9. Applicants also identified support in the present specification and in the priority document PN8965 for the corrected sequences. However, in the Office Action dated November 3, 2003, the Examiner objected to the corrections in SEQ ID NOS: 6 and 8, and required Applicants to withdraw the changes made to SEQ ID NOS: 6 and 8. In that same Office Action, the Examiner did not object to or comment on the corrections made to SEQ ID NO: 7 or SEQ ID NO: 9. In the response filed May 6, 2004, Applicants withdrew the changes previously made to SEQ ID NOS: 6 and 8. It was Applicants' understanding that the corrections to SEQ ID NOS: 7 and 9, which were presented in the Preliminary Amendment dated August 9, 2001, were accepted by the Examiner. Therefore, contrary to the Examiner's contention, Applicants did not introduce any further modification to SEQ ID NO: 7 or SEQ ID NO: 9 in the Amendment dated May 6, 2004.

With respect to the basis for the corrected SEQ ID NOS: 7 and 9, Applicants identified the relevant support in the present specification by way of the Preliminary Amendment filed on August 9, 2001. That is, the correct versions of SEQ ID NOS: 7 and 9 are disclosed in Figure 1 and Figure 8 as originally filed in the present application and in the parent case (U.S. Serial No. 09/155,327), as well as in the priority documents, PCT/AU97/00199 and PN8965.

As a courtesy to the Examiner, Applicants provide herewith side-by-side comparisons of SEQ ID NOS: 7 and 9 with Figures 1 and 8, respectively. Specifically, Applicants provide herewith a copy of newly formatted Figure 1 (**Exhibit A**), wherein the sheets Figure 1(i) and Figure 1(ii), as originally filed in the present application on August 9, 2001, are joined at the match line to become one sheet for convenience of comparison. It is respectfully submitted that the content of Figures 1(i)-(ii) is identical with that of Figures 1(i)-(ii) filed in the parent application, with that of Figures 1(i)-(ii) filed in PCT/AU97/00199, and with that of Figure 1 in the priority document PN8965. A side-by-side comparison is provided herewith (**Exhibit B**) to illustrate the identity of the bcl-w sequence in Figure 1 with the current sequence of SEQ ID NO: 9 of record.

Similarly, Applicants provide herewith a copy of newly formatted Figure 8 (**Exhibit C**), wherein the sheets Figure 8(i) through Figure 8(iv), as originally filed in the present application on August 9, 2001, are joined at the match lines to become one sheet for convenience of comparison. It is respectfully submitted that the content of Figures 8(i)-(iv) is identical with that of Figures 8(i)-(iv) filed in the parent application, with that of Figures 8(i)-(iv) filed in PCT/AU97/00199, and with that of Figure 8 in the priority document PN8965. A side-by-side comparison is provided herewith in **Exhibit D** to illustrate the identity of the bcl-w sequence in Figure 8 with the current sequence of SEQ ID NO: 7 of record.

Therefore, Applicants respectfully submit that the current sequences of SEQ ID NO: 7 and SEQ ID NO: 9 are fully supported by the present application filed on August 9, 2001, by the parent application, and by PCT/AU97/00199 and the priority document PN8965. Applicants are therefore entitled to the priority date of PN8965 (i.e., March 27, 1996).

As to the inconsistencies between the codons in SEQ ID NOS: 6 and 8, and the amino acid sequences of SEQ ID NOS: 7 and 9, Applicants respectfully submit that in light of the instant disclosure including Figures 1 and 8, and the disclosure of PCT/AU97/00199 and PN8965, those skilled in the art would recognize that the inconsistencies are results of clerical errors in preparing the Sequence Listing.

In view of the foregoing, it is respectfully submitted that the Examiner's objection to the priority claim of the present application and the rejection of claims 6-10 and 21-22 under 35 U.S.C. §112, first paragraph, are overcome. Withdrawal of the objection and the rejection is therefore respectfully requested.

Claims 6-10 and 21-22 are further rejected under 35 U.S.C. §102(b) as allegedly anticipated by AN: Q92843 (human BCLW, the record of which was created in GenBank on November 1, 1997), and by AN: P70345 (mouse BCLW, the record of which was created in GenBank on November 1, 1997). Claims 6-10 and 21-22 are also rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent 6,812,339 (first filed on September 8, 2000, issued on November 2, 2004).

Apparently, the Examiner has raised these rejections on the basis that the sequences of SEQ ID NOS: 7 and 9 are only entitled to the priority date of May 6, 2004. As submitted above, Applicants have established that SEQ ID NOS: 7 and 9 are entitled to the priority date of March 27, 1996. Therefore, the cited references are not prior art relative to the claimed invention. Withdrawal of the rejections under 35 U.S.C. §102(b) and 102(e) is therefore respectfully requested.

In view of the foregoing, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Xiaochun Zhu', written in a cursive style.

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Encs.: Exhibits A-D

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	A	S1			
Bclw	MATPASTHDT	RALVADFVG	KLRQKGYVCG	AGPGEGPAAD	PLHQAMRAAG 50
Bclw-Rox	MATPASTHDT	RALVADFVG	KLRQKGYVCG	AGPGEGPAAD	PLHQAMRAAG 50
				S2	
Bclw	DEFETRFRRT	FSDLAAQLHV	TPGSAQQRFT	QVSDELFQGG	PNWGRLVAFF 100
Bclw-Rox	DEFETRFRRT	FSDLAAQLHV	TPGSAQQRFT	QVSDELFQGG	PNWGRLVAFF 100
			E	S3	
Bclw	VFGAALCAES	VNKEMEPLVG	QVQDWMVAYL	ETRLADWIHS	SGGWAEFTAL 150
Bclw-Rox	VFGAALCAES	VNKEMEPLVG	QVQDWMVAYL	ETRLADWIHS	SGGWAELEATK 150
Bclw	YGDGALEEAR	RLREGNWASV	RTVLTGAVAL	GALVTVGAF	ASK* 193
Bclw-Rox	ARVREMEEEA	EKLKELQNEV	EKQNMSPPP	GNAGPVIMSL	EKMEADARS 200
Bclw-Rox	IYVGNVDYGA	TAELEAHFH	GCGSVNRVTI	LCDKFSGHPK	GFAYIEPSDK 250
Bclw-Rox	ESVRTSLALD	ESLFRGRQIK	VIPKRTNRPG	ISTDRGFPR	SRYRARTNY 300
Bclw-Rox	NSSRSRFYSG	FNSRPRGRIY	RGRARATSWY	SPY*	333

Fig. 1 (i)

Fig. 1 (ii)

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<400> 9

Bclw	MATPASTPT RALVADFVGY	S1	KLRQKGVCG AGPGGPPAD PLHQAMRAAG	50	Met Ala Thr pro Ala Ser Thr Pro Asp Thr Arg Ala Leu Val Ala Asp
Bclw-Rox	MATPASTPT RALVADFVGY	S1	KLRQKGVCG AGPGGPPAD PLHQAMRAAG	50	10 15 20 25 30 35 40 45
Bclw	DEPTFRAT FSDLAALHIV	S2	TPGSAQQRET QVSDLEFGG PNMGLVAFF	100	Phe Val Gly Tyr Lys Leu Arg Gln Lys Gly Tyr Val Cys Gly Ala Gly
Bclw-Rox	DEPTFRAT FSDLAALHIV	S2	TPGSAQQRET QVSDLEFGG PNMGLVAFF	100	55 60 65 70 75 80 85 90 95
Bclw	VFGALCAES VNKEMEPLVG	E	QVQDMWVYL ETRLADVHS SGGAEFTAL	150	pro Gly Gly pro Ala Ala Asp pro Leu His Gln Ala Met Arg Ala
Bclw-Rox	VFGALCAES VNKEMEPLVG	E	QVQDMWVYL ETRLADVHS SGGAEFTAL	150	Ala Gly 50
Bclw	YDGALEEAR RLREGNWASV	A	RTVLTGAVAL GALVTGGAFF ASK	193	Asp Glu Phe Glu Thr Arg Phe Arg Thr Phe Ser Asp Leu
Bclw-Rox	YDGALEEAR RLREGNWASV	A	RTVLTGAVAL GALVTGGAFF ASK	193	Ala Ala Gln Leu His Val Thr Pro Gly Ser Ala Gln Thr Arg Phe Thr
Bclw-Rox	YDGALEEAR RLREGNWASV	A	RTVLTGAVAL GALVTGGAFF ASK	193	Gln Val Ser Asp Glu Leu Phe Glu Gly Pro Asn Trp Gly Arg Leu
Bclw-Rox	IYGVNDYCA TABELEAHFH		GCGSVNRVTI LCDKESGHPK GFAYIEFSDK	250	Val Phe Gly Ala Ala Leu Cys Ala Glu Ser Val Asn
Bclw-Rox	ESVTSIALD ESLFRGRQIK		VIPKSTNRPG ISTDRGFPR SRVYARTNY	300	Lys Glu Met Glu Pro Leu Val Gly Gln Val Gln Asp Trp Met Val Ala
Bclw-Rox	NSSRRFYSG FNSRRPRGHY		RGRARATSWY SPY	333	Tyr Leu Glu Thr Arg Leu Ala Asp Trp Ile His Ser Ser Gly Gly Trp
Bclw-Rox	NSSRRFYSG FNSRRPRGHY		RGRARATSWY SPY	333	Ala Glu Phe Thr Ala Leu
Bclw-Rox	NSSRRFYSG FNSRRPRGHY		RGRARATSWY SPY	333	Arg Leu Arg Glu Gly Asn Trp Ala Ser Val Arg Thr Val Leu Thr
Bclw-Rox	NSSRRFYSG FNSRRPRGHY		RGRARATSWY SPY	333	Ala Val Ala Leu Gly Ala Leu Val Thr Val Gly Ala Phe Ala Ser
Bclw-Rox	NSSRRFYSG FNSRRPRGHY		RGRARATSWY SPY	333	Lys

Fig. 1 (i)

Fig. 1 (ii)

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S1			
Bc12	MAHAGRTGYD NRELMKYIH YKLSORCYEW	DAGDVGAAPP GAAPAPGIFS SQPGHTPHTA	60
Bc1x	.....MSQS NRELKVDFLS YKLSORCYSW	SQFSQVEENR TEAPEGTESE METPSAINGN	54
Bc1w	MATPASABD TRALADDFVG YKLSORCYVC	GAGPGE.....	35
Ced9	D IEGFVDYFT HRIIRONGMEW		99
Bak		MASG QGPQPPROEC GEPALPSASE EQVAQDTEEV	34
Bax		MDQSGEQPR GGGPTSSEQI MKTG.....	23
		BH1	NH1
Bc12	ASRDPVARTS PLQTPAAPGA AAGPAL.....	SPVPPVV HLTHQAGDQSSRYVEDHAE	113
Bc1x	PSWH LADSP AVNGATGHSS SLDARE.....	VIPMAAV KQALREAGLEELRYRAESD	107
Bc1w	.....	GPAADPL HQANRAHLEETREKTESD	63
Ced9	.....	HEMHRVMGTIFKKHAENHET	132
Bak	FRSYVFYRHQ QEQAEGVAA PADPEMVTLE	LQPSSTMGQV GROQATGDIINRYDSEET	95
Bax	....ALLQG FIQDRAGRMG GEAPCALDR	VPQDASTKKL SECLERIGUELDS NMELOR	78
Bik		ACTGDEM	
S2		BH1	
Bc12	MSRCHLTS FTARGREAT VEELEBDG V	NWGRVY KEFEEGG V MCVEYANRE	165
Bc1x	LTSQHITH GTAYQSEEQ VNELEBDG V	NWGRVY KEFEEGG A GCVESIDKE	158
Bc1w	LAAQHVTG GSAQQRETQ SDELEGGG P	NWGRVY KEFEEGG A LCAESANKE	114
CED9	FCEQLAVE RISFSLYQDV VRTVGNAQTD	QCPSMYGLI GLISLGFVA AKMM	190

Fig. 8 (i)

Fig. 8 (ii)

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Bak	HLQHQPPAA ENAYEYETK ATSEESG I	NWGRVY KEFEEGG V MCVEYANRE	146
Bax	MIAAVD..T DSPREVEFR RADHESDGNF	NWGRVY KEFEEGG A GCVESIDKE	128
S3		BH2	
Bc12	SPFVDNIAL MTELENRH MTHODNCC	DAEVELYD PSMPRLF	210
Bc1x	QVIAISRFAA MATYNDH GEPHOEN	DAEVELYD NNAAES	203
Bc1w	EPFVGQOE MVAEETR EADHSSCG	DAEVELYD GALEEARLR	163
Ced9	QGGVRNLFV YTSLEFIKTRI RNNKEHNS	DAEVELYD	218
Bak	ITGFLGQYTR FVVDEMLHC IARFAQRTE	VAALNIGN	185
Bax	VPEDERTMG HTLDFRRL LG HQDQCG	DOGLLSYF	166
Bc12	DFSWLSLKL LSLAL VGAC HTLQAYLGH		239
Bc1x	RKQERFNRW FLTGMTVAGV LLSLFSRK		233
Bc1w	EGNWAASVRTV LTGAVALGAL TVGAFFAS		193
BakGP ILNVLVVLGV LLLQFVVR	FFKS	211
BaxTPT MGTATFVAG LTLASLTME	KMG	192

Fig. 8 (iii)

Fig. 8 (iv)

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BC12 MAKACRTOID NERLAKYKH KESQOQSEM
BC1XMSQS NERLAKYKH KESQOQSEM
BC1V MATPASAD TALAOFVQ KESQOQSEM
Ced9 D IEGFYDYFT KRIRONGMEM

DAGOVGAAP GAAPACIFS SOPCHTPIA 60
SOFQOVENR TEAPCTESE METPAINON 54
CAGPGE 15
99

BAK MASG
Bax

OGPQPRQEC SEPALPSASE EQVADTEV 34
MDSGQPR OGPTSEQOI MKTG..... 23

BC12 ASROPVARS PIOTPAASCA MACPAL
BC1X PSWR LADSP AVNGATGHS SIDAEL
BC1V
Ced9

SPVPPVY HLTROKODSRREYEDAE 113
VIPAAY KOALREKODRELLRYEDAE 107
CPALOPC HONANAKODRELLRYEDAE 63
HENIMVGTI GERHAENRET 112

BAK PRSVFYRHO QOEAEVVA PADRYVTLK
BaxALLLOG FIDOPARHMG GEARLALAD

LOPSSIMQOV GROALISGIMNRYOSQOT 95
VPDASTIKL SECIRPQOENOS NMELOR 78

BC12 ASROPVARS PIOTPAASCA MACPAL
BC1X PSWR LADSP AVNGATGHS SIDAEL
BC1V
Ced9

SPVPPVY HLTROKODSRREYEDAE 113
VIPAAY KOALREKODRELLRYEDAE 107
CPALOPC HONANAKODRELLRYEDAE 63
HENIMVGTI GERHAENRET 112

BC12 ASROPVARS PIOTPAASCA MACPAL
BC1X PSWR LADSP AVNGATGHS SIDAEL
BC1V
Ced9

SPVPPVY HLTROKODSRREYEDAE 113
VIPAAY KOALREKODRELLRYEDAE 107
CPALOPC HONANAKODRELLRYEDAE 63
HENIMVGTI GERHAENRET 112

Fig. 8 (i)

Fig. 8 (ii)

<400> 7
Met Ala Thr Pro Ala Ser Ala Pro Asp Thr Arg Ala Leu Val Ala Asp
1 10
Phe Val Gly Tyr Lys Leu Arg Gln Lys Gly Tyr Val Cys Gly Ala Gly
20
Pro Gly Glu 35
Gly Pro Ala Ala Asp Pro Leu His Gln Ala Met Arg Ala
50
Ala Gly Asp Glu Phe Glu Thr Arg Phe Arg Arg Thr Phe Ser Asp
50
Ala Ala Gln Leu His Val Thr Pro Gly Ser Ala Gln Gln Arg Phe Thr
65
Gln Val Ser Asp Glu Leu Phe Gln Gly Pro Asn Trp Gly Arg Leu
75
Val Ala Phe Val Phe Gly Ala Ala Leu Cys Ala Glu Ser Val Asn
100
Lys Glu 100

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